

BRIAN BOYNTON
Acting Assistant Attorney General
DAVID L. ANDERSON
United States Attorney
MICHELLE R. BENNETT
Assistant Branch Director
JUSTIN M. SANDBERG, IL. BAR NO. 6278377
Senior Trial Counsel
MICHAEL GERARDI
CHRISTOPHER R. HEALY
REBECCA M. KOPPLIN
DANIEL RIESS
Trial Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, D.C. 20001
Telephone: (202) 514-5838
Email: Justin.Sandberg@usdoj.gov
Counsel for Federal Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

STATE OF CALIFORNIA, *et al.*,

Plaintiffs,

v.

NORRIS COCHRAN, Acting Secretary of
Health and Human Services, *et al.*,¹

Defendants,

and,

THE LITTLE SISTERS OF THE POOR,
JEANNE JUGAN RESIDENCE, *et al.*,

Defendant-Intervenors

Case No.: 4:17-cv-5783-HSG

**FEDERAL DEFENDANTS'
ADMINISTRATIVE MOTION TO
STAY ALL PROCEEDINGS**

¹ Acting Secretary Cochran, Acting Secretary of Labor Al Stewart, and Secretary of Treasury Janet Yellen have been substituted as defendants, in their official capacity, by operation of Federal Rule of Civil Procedure 25(d).

Pursuant to Civil Local Rule 7-11 and Federal Rule of Civil Procedure 6(b)(1)(A), Federal Defendants hereby move for a stay of proceedings in the above-captioned case until April 30, 2021, while new leadership evaluates the issues presented by this case.

1. This case concerns the validity of two rules which create a moral exemption, and expand a religious exemption, to the rules establishing the contraceptive coverage requirement. *See* Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the ACA, 83 Fed. Reg. 57,536 (Nov. 15, 2018); Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the ACA, 83 Fed. Reg. 57,592 (Nov. 15, 2018).

2. The Court has before it fully briefed dispositive motions, *see* ECF Nos. 311, 366, 368, 370, as well as supplemental briefs addressing the Supreme Court's decision in *Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 140 S. Ct. 2367 (2020), *see* ECF Nos. 433, 435, 437, 438, 440.

3. The Court has the inherent power to stay this case to save "time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936).

4. New leadership at the federal defendant agencies—the U.S. Department of Health and Human Services, the U.S. Department of Labor, and the U.S. Department of the Treasury—and the U.S. Department of Justice is currently in the process of arriving and needs additional time to evaluate the issues that this case presents. It would therefore conserve the resources of the Court and the parties to stay the case until April 30, 2021, while the agencies undertake this reassessment.

5. Federal Defendants propose to file a status report with the Court on or before April 30, 2021.

6. This is the third motion for a stay filed by Federal Defendants. Federal defendants filed (i) an agreed-to motion to stay proceedings pending the resolution of the appeals on the Court's first order issuing a preliminary injunction, ECF No. 146, and (ii) a motion to stay proceedings due to a lapse in the federal government's appropriations, ECF No. 180.

6. Opposing counsel state that while Plaintiffs believe that this case is ready for adjudication, they would not oppose a stay if Federal Defendants filed a status report every 30 days, and if Plaintiffs retained the right to move for a decision on their pending motion for summary judgment in the event

1 that no regulatory action had occurred within 60 days. Counsel for intervenor March for Life states
2 that March for Life does not oppose the proposed stay. Counsel for intervenor The Little Sisters of
3 the Poor Jeanne Jugan Residence states that his client opposes the stay.

4 Therefore, the Government hereby moves for a stay of proceedings in this case until April
5 30, 2021, to permit new leadership to evaluate the issues presented by this case.
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8 Dated: March 1, 2021

Respectfully submitted,

9 BRIAN BOYNTON
Acting Assistant Attorney General

10 DAVID L. ANDERSON
United States Attorney

11 MICHELLE R. BENNETT
Assistant Branch Director

12
13 /s/ Justin M. Sandberg
14 JUSTIN M. SANDBERG, IL Bar No. 6278377
Senior Trial Counsel
15 MICHAEL GERARDI
CHRISTOPHER R. HEALY
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17 Trial Attorneys
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1100 L Street NW
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20 Email: Justin.Sandberg@usdoj.gov
Counsel for Federal Defendants
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